



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1992

David R. Smith, M.D.
Commissioner
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

Letter Opinion No. 92-40

Re: Whether the Department of Health
or a county clerk has the authority to
rescind a marriage license (RQ-308)

Dear Commissioner Smith:

You have asked whether the Department of Health or a county clerk has the power to rescind and cancel an application for a marriage license, or a license itself, at the request of an affiant who asserts, *inter alia*, that he is not subject to the Family Code.

As you correctly point out, "[n]either the Family Code nor the Health and Safety Code contain specific language which authorize an individual to rescind and cancel an application and license for marriage by affidavit." Absent such statutory authority, the Department of Health has no power to rescind or cancel such an application or license on that basis.

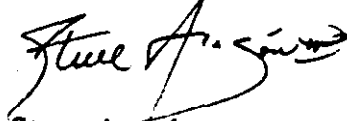
We note that the affiant has asserted that he is not subject to the Family Code. However, he further asserts that he is a resident of Harris County, Texas. As a resident of Harris County, the affiant is subject to the laws of Texas, including the Family Code.

S U M M A R Y

Neither the Department of Health nor a county clerk has the power to rescind or cancel an application for a marriage license, or a license itself, at the request of an affiant who asserts, *inter alia*, that he is not subject to the Family Code. Any

residing in any county of Texas is subject to the laws of Texas,
including the Family Code.

Yours very truly,

A handwritten signature in black ink, appearing to read "Steve Aragón", with a stylized flourish at the end.

Steve Aragón
Assistant Attorney General
Opinions Committee